

**DEPARTMENT FOR
BEHAVIORAL HEALTH,
DEVELOPMENTAL and INTELLECTUAL
DISABILITIES**

**FACILITY RISK MANAGEMENT
PROTOCOL**

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DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES (DBHDID)

FACILITY RISK MANAGEMENT PROTOCOL

1. PURPOSE AND PHILOSOPHY OF RISK MANAGEMENT

A. Purpose

The purpose of this protocol is to describe the responsibilities related to the protections of individuals who are served by the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID), and all of its facilities and the management of incidents. Risk Management includes the components of effective abuse protection recommended by the Centers for Medicare & Medicaid Services (CMS); incident investigation; tracking and trending of incidents; incident data analysis; and implementing effective actions to protect from harm those individuals served.

B. Philosophy

Risk Management serves to promote an environment that is free from harm. DBHDID believes all individuals served are entitled to appropriate services in a caring and hospitable environment that is free from harm. In order to create this environment, facilities must eliminate, wherever possible, the occurrence of incidents; i.e., episodes of harm or potential harm. The fewer the incidents, the more caring and hospitable the circumstances under which those individuals we serve will live, work, and learn. Furthermore, Risk Management is a component of a larger Quality Improvement program by which the emphasis is on improvement of systems and processes through the collection and analysis of data.

2. SYSTEMIC APPROACH TO PREVENT ABUSE / NEGLECT

Facilities must have integrated systems to ensure all individuals served are free from abuse, neglect, exploitation, mistreatment, injuries of unknown origin, peer to peer aggression with injury, serious injuries, and other harms. Facilities are responsible to organize systems in such a manner as to **proactively** assure individuals are free from serious and immediate threat to their physical and psychological health and safety. The following key components to a systematic approach are required for effective protection from harms:

A. Prevent

This component ensures there is adequate staff at the facility on duty, which includes the appropriate number and types of qualified, trained, and experienced staff, available to meet the care needs of every individual.

The facility implements policies and procedures, and organizes itself in such a manner that individuals are free from threat to their health and safety.

The facility's system has the capacity to prevent the occurrence of abuse, neglect, exploitation, mistreatment; injuries of unknown origin; peer to peer aggression with injury; serious injuries; and other harms and reviews specific incidents for "lessons learned" which form a feedback loop for necessary policy changes.

B. Screen

This component ensures that persons with a conviction or prior employment history of child or adult abuse, neglect or mistreatment are not hired or retained as employees.

C. Identify

This component ensures the facility creates and maintains a proactive approach to identify events and occurrences that may constitute or contribute to abuse, neglect, exploitation, mistreatment; injuries of unknown origin; peer to peer aggression with injury; serious injuries; and other harms.

The facility identifies patterns or isolated incidents of unexplained functional regression, or other evidence of physical, verbal, sexual or psychological abuse or punishment posing a serious and immediate threat to individuals.

D. Train

This component ensures the facility, during its orientation program, and through an ongoing training program, provides all employees with information regarding signs and symptoms and the reporting of abuse, neglect, exploitation, mistreatment; injuries of unknown origin; peer to peer aggression with injury; serious injuries; and other harms and related reporting requirements, including prevention, intervention, and detection.

The facility ensures that staff can define what constitutes abuse and punishment and actively promotes respect and dignity for individuals. The facility ensures training provided results in the competencies needed for staff to do their job.

Through the treatment planning process, the facility will train family and guardians about the signs and symptoms and the reporting of abuse, neglect, exploitation, and mistreatment.

E. Protect

This component ensures the facility protects individuals from further potential harm during investigation of any allegation of abuse, neglect, exploitation, mistreatment; injuries of unknown origin; peer to peer aggression with injury; serious injuries; and other harms. The facility shall protect individuals, staff, and others who report from retaliation.

F. Investigate

This component ensures the facility conducts an objective investigation of all alleged abuse, neglect, exploitation, mistreatment; injuries of unknown origin; peer to peer aggression with injury; serious injuries; and other harms, in a timely and thorough manner.

Nursing Homes and ICF/IDD Facilities: This system ensures the facility reports the results of all investigations to the Facility Director or designated representative and to other officials in accordance with applicable local, State, or Federal law within 5 working days of the incident and, if the alleged violation is verified, appropriate corrective action is taken.

Hospitals and Personal Care Homes: This system ensures the facility reports the results of all investigations to the Facility Director or designated representative or to other officials in accordance with applicable local, State, and Federal law within 14 calendar days of the incident, and if the alleged violation is verified, the appropriate corrective action is taken.

Nursing Homes, ICF/IDDs, Personal Care Homes and Hospitals: Analysis of incidents and investigations is an ongoing process. Identified trends are addressed through a continuous Quality Improvement program in a timely manner. Based on data analysis, corrective systematic improvements are developed, trained, implemented and monitored for sustained improvement.

G. Report/Respond

The Facility Director or designated representative shall follow KRS 209, KRS 620, 42 CFR 483.13, and 42 CFR 483.420 for **immediate reporting of harms or potential for harms to adults and children including, but not limited to ALL:** allegations of abuse, neglect, exploitation, or mistreatment; injuries of unknown origin; serious injuries, whether known or unknown; peer to peer aggression with serious injury; and serious occurrences or events with potential to cause harm. At the Facility Director's or designated representative's discretion, or the DBHDID Commissioner's request, additional harms not delineated above may also be reported. All immediate reports shall be made to:

- a. DCBS (see Sections 9.A., 9.C., and 9.E);
- b. OIG (see Sections 9.B. and 9.E.); and/or
- c. DBHDID (see Sections 9.A., 9.C., 9.D., and 9.E.)

Following the identification of a condition or situation that has potential to cause harm to a person's psychological and/or physical health and safety, or following an incident that causes harm to a person's

psychological and/or physical health and safety, it is the responsibility of the facility to **immediately** secure the safety of the individual(s) or person(s) by removing the threat.

3. AGENCY ROLES

A. Department for Behavioral Health, Developmental and Intellectual Disabilities

DBHDID provides minimum guidelines for risk management whether the facility is operated directly or under contract. DBHDID is responsible for the administration, implementation, coordination, and monitoring of the Facility Risk Management Protocol and providing technical assistance to the facilities regarding the Facility Risk Management Protocol.

B. Office of Inspector General

The Office of Inspector General (OIG) investigates for potential facility regulatory violations with state and federal law, to include allegations of abuse, neglect, and exploitation. Investigation objectives will focus on the facility's protective oversight, prevention, efficiency and quality within the healthcare delivery system.

C. Department for Community Based Services: Adult and Child Protections

a. Adult Protections – KRS 209

Any person, including but not limited to physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of KRS 209. The Department for Community Based Services (DCBS) provides protective services that may include, but are not limited to, conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he/she obtains suitable care in the facility.

b. Child Protections – KRS 620

Any person who knows or has reasonable cause to believe that a child is dependent, neglected or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or the Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect or abuse shall promptly make a report to the proper authorities for investigation. Nothing in this section shall relieve individuals of their obligations to report.

4. APPLICATION AND AUTHORITY

A. Application

This Protocol applies to all individuals served in the DBHDID facilities, whether operated directly or under contract, and to all state employees, contract employees, consultants, agents, visitors to the facility, family/guardian, and other persons as applicable.

B. Authority

The Facility Risk Management Protocol is based upon reference to the following statutes, regulations, and State Operation Manuals:

KRS 209, KRS 216, KRS 218A, KRS 222, KRS 507, KRS 508, KRS 509, KRS 510, KRS 511, KRS 513, KRS 514, .KRS 530, 42 CFR 483.1-75, KRS 531, KRS 600, KRS 620, 101 KAR 2:102, 902 KAR 20:016, 902 KAR 20:048, 902 KAR 20:051, 42 CFR 483.400-480, State Operations Manual Appendix A - Survey Protocol, Regulations and Interpretive Guidelines for Hospitals (Rev. 1, 5-21-04), State Operations Manual Appendix J - Guidance to Surveyors: Intermediate Care Facilities for Persons With Mental Retardation, State Operations Manual Appendix PP - Guidance to Surveyors for Long Term Care Facilities, State Operations Manual Appendix Q – Guidelines for Determining Immediate Jeopardy, Key Indicators Effective 3/1/08

5. GENERAL DEFINITIONS

A. Agent

Any person not employed by the facility but working under the auspices of the facility, including but not limited to: volunteer, student.

B. Facility Risk Management Coordinator

The staff assigned by the Facility Director responsible for implementing the Facility Risk Management Protocol.

C. Incitement

To spur to action or instigate into activity; implies responsibility for initiating another person's actions.

D. Individual

The person served in a facility: who resides in a nursing home; who resides in an ICF; who does not reside in an ICF but receives services at the ICF; who receives services in a psychiatric hospital; who resides in a personal care home; who resides in a neuro-behavioral unit; OR, who may be physically away from the facility (nursing home, ICF/IDD, personal care home, neuro-behavioral unit or psychiatric hospital) but still carried on the census of the facility.

E. Investigation

The process of conducting an objective, thorough, timely systematic examination of all allegations of abuse, neglect, exploitation, or mistreatment; injuries of unknown origin; peer to peer aggression with injury; serious injuries, or other harms.

F. Investigator

A person who successfully completes a DBHDID-approved Investigator training.

G. Retaliatory Action

Any action intended to inflict emotional or physical harm or inconvenience on an employee or individual served, by a supervisor, another employee, or another individual because he or she has reported an allegation of abuse, neglect, exploitation, mistreatment; injuries of unknown origin; peer to peer aggression with injury; serious injuries; or other harms. This includes, but is not limited to: harassment, disciplinary measures, intimidation, discrimination, reprimand, threat, and/or criticism.

6. HARM TRIGGERS

Facilities have an integrated system in place to protect individuals served in DBHDID facilities from all types of harm, whether the facility is operated directly or under contract. This includes protection from harm by, but is not limited to: state employees; contract employees; other individuals; consultants; agents; visitors to the facility; family/guardian; and other persons as applicable. Harm triggers include, but are not limited to (Harm Triggers – see Appendix A):

- a. Failure to protect from abuse – Physical, Sexual Abuse, Sexual Assault, Verbal
- b. Failure to protect from neglect
- c. Failure to protect from psychological harm
- d. Failure to protect from undue adverse medication consequences or non-provision of medications as prescribed
- e. Failure to provide adequate nutrition and hydration to support and maintain health
- f. Failure to practice adequate standard safety precautions or infection control
- g. Failure to correctly identify individuals
- h. Failure to provide safety from fire, smoke, or environmental hazards or educate staff in handling emergency situations
- i. Failure to provide initial medical screening, stabilization of emergency medical conditions and safe transfer for individuals and women in active labor seeking emergency treatment (Emergency Medical Treatment and Active Labor Act)

7. HARM DEFINITIONS

A. Abuse - Mental/Psychological Abuse

Includes, but is not limited to: humiliation, harassment, threats of punishment or deprivation, sexual coercion, or intimidation, whereby individuals suffer psychological harm or trauma.

B. Abuse – Physical

Any physical motion or action, by which bodily harm or trauma occurs, and includes but is not limited to: hitting, slapping, pinching, punching, kicking and burning. Physical abuse also includes controlling behavior through corporal punishment as well as the use of any restrictive, intrusive procedure to control inappropriate behavior for purposes of punishment.

C. Abuse-Sexual Assault

Any criminal action of sexual penetration by use of force or threat of force and/or the aggressor knew the victim was unable to understand the nature of the act or unable to give knowing consent. Sexual assault is a form of sexual violence which includes, but is not limited to: rape, groping, forced kissing, or the torture of a person in a sexual manner.

D. Abuse - Verbal

Any use of oral, written or gestured language that willfully includes disparaging and/or derogatory terms to individuals, their families, and/or their significant others, or within their hearing distance, regardless of their age, ability to comprehend, or disability. Verbal abuse also includes pejorative and derogatory terms to describe individuals with disabilities.

E. Adult Abuse

Adult abuse is the willful infliction of injury, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including mental injury or anguish. Abuse also refers to the ill-treatment, violation, revilement, maltreatment, and/or otherwise disregard of an individual, whether purposeful, or due to carelessness, inattentiveness, or omission of the perpetrator. This may be a direct act by an individual or the incitement of another staff member or individual to perform the act. Abuse also may be due to staff neglect or indifference to infliction of injury or intimidation of one individual by another.

F. Adult Neglect

A situation in which an adult is unable to perform or obtain for himself the goods or services that are necessary to maintain his health or welfare, or the deprivation of services by a caretaker, i.e. the failure to provide goods and services necessary, to maintain the health and welfare of an adult, which may result in physical harm, mental anguish, or mental illness.

G. Aggression Peer to Peer

An occurrence whereby an individual who resides or receives services at the facility acts aggressively toward another individual who resides or receives services at the facility and the occurrence includes, but is not limited to: hitting, pushing, kicking or other similar acts.

H. Child Abuse and Neglect (KRS 600.020(1))

"Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

- a. Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
- b. Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
- c. Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005;

- d. Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
- e. Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
- f. Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
- g. Abandons or exploits the child;
- h. Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child; or
- i. Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months.

I. Exploitation

Obtaining or using an individual's resources, including but not limited to **funds, assets, or property**, by deception, intimidation, or similar means, with the intent to deprive the individual of those resources. Exploitation includes the misappropriation of an individual's property which includes the deliberate misplacement, mistreatment, or wrongful, temporary, or permanent use of an individual's belongings or money without the individual's consent.

J. Immediate

Without delay.

K. Inappropriate Sexual Contact

Sexual contact between two individuals including, but not limited to: residents; state employees; contract employees; consultants; agents; visitors to the facility; family/guardian; other persons as applicable; and, includes any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party, regardless of the individual or person who originated the action. Sexual abuse/assault also includes but is not limited to: staff negligently allowing intimate sexual contact between individuals, sexual harassment, and sexual coercion.

L. Incident

An occurrence or event that causes harm, or has potential to cause harm to, including but not limited to: individual(s) served, state employees, contract employees, consultants, agents, visitors to the facility, family/guardian, and property.

M. Injuries of Unknown Origin

An injury should be classified as an "injury of unknown origin" when **both** of the following conditions are met:

- a. The origin of the injury was not observed by any person **or** the source of the injury could not be explained by the individual; **and**
- b. The injury is suspicious because of the extent of the injury **or** the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma) **or** the number of injuries observed on one individual at one particular point in time **or** the incidence of injuries over time.

N. Medication Errors

There are nine (9) categories of medication errors, according to Categories as defined by National Coordinating Council for Medication Error Reporting and Prevention (NCC-MERP) Error Outcome Category Index:

- a. Category A: Circumstances or events that have the capacity to cause error; this error requires a medication variance report to the facility Pharmacy and Therapeutics Committee.

- b. Category B: An error occurred, but the error did not reach the patient; this error requires a medication variance report to the facility Pharmacy and Therapeutics Committee.
- c. Category C: An error occurred that reached the patient, but did not cause patient harm.
- d. Category D: An error occurred that reached the patient and required monitoring to confirm that it resulted in no harm to the patient, and/or required intervention to preclude harm.
- e. Category E: An error occurred that may have contributed to or resulted in temporary harm to the patient and required intervention.
- f. Category F: An error occurred that may have contributed to or resulted in temporary harm to the patient and required initial or prolonged hospitalization.
- g. Category G: An error occurred that may have contributed to or resulted in permanent patient harm.
- h. Category H: An error occurred that required intervention necessary to sustain life.
- i. Category I: An error occurred that may have contributed to or resulted in the patient's death.

O. Minor Injury

The injury received is of minor severity, e.g., any bruise, cut, or abrasion, that requires either the administration of minor first aid or no treatment. This is meant to include treatments such as the application of small adhesive bandages, cleaning of abrasion, application of ice packs for minor bruises, or use of over the counter medications such as antibiotic creams, aspirin and acetaminophen. Minor first aid may be applied by medical personnel to include a physician.

P. Missing Individual / Elopement

An event in which an individual has not been accounted for when expected to be present, or left the grounds of the facility without permission. NOTE: If an individual was on one-to-one supervision at the time of elopement, the classification for the event is Neglect and reported as Alleged Neglect.

Q. Mistreatment

Behavior or practice that results in any type of individual exploitation such as sexual or criminal.

R. Mortality

Expected or unexpected death of an individual within the facility, during hospitalization, or within 30 days after discharge or transfer to another healthcare setting.

S. Para-suicidal Behavior

Behavior suggesting suicidal thoughts, with no serious attempt present.

T. Serious Injury

The injury received is of serious severity, e.g., sutures, bone fractures, burns, substantial hematoma, injuries to internal organs, prescriptions beyond over the counter medication, or occurrences or events considered as serious injuries, that requires the treatment of the individual by a licensed medical physician (medical treatment beyond first aid.) The treatment received may be provided within the facility or provided outside the facility where it may range from treatment at a physician's private office or clinic or through treatment at the emergency room of a general acute care hospital.

U. Suicidal Behavior (Attempt)

Any serious attempt to kill one's self.

V. Threat

Any condition or situation which could cause or result in severe, temporary, or permanent injury or harm to the mental or physical condition of individuals, or in their death.

8. WRITTEN PROCEDURES

Facilities shall have written procedures to follow KRS 209, KRS 620, 42 CFR 483.13, and 42 CFR 483.420 in the reporting of incidents to the Facility Director or designated representative and/or other authorized officials, and corresponding integrated Risk Management system.

9. IMMEDIATE and FOLLOW-UP REPORTING TO DCBS, DBHDID, OIG

The Facility Director or designated representative shall follow KRS 209, KRS 620, 42 CFR 483.13, and 42 CFR 483.420 for **immediate reporting of harms or potential for harms to adults and children including, but not limited to ALL:** allegations of abuse, neglect, exploitation, or mistreatment; injuries of unknown origin; serious injuries, whether known or unknown; peer to peer aggression with serious injury; and serious occurrences or events with potential to cause harm. At the Facility Director's or designated representative's direction, additional harms not delineated above may also be reported. All immediate reports shall be made to:

- a. DCBS (see Sections 9.A., 9.C, and 9.E);
- b. OIG (see Sections 9.B. and 9.E.); and
- c. DBHDID (see Sections 9.A., 9.C., 9.D., and 9.E.)

The Report of Unusual Incidents form (Appendix B) should be used as a *guideline* for immediate reporting and completed and submitted for follow-up reporting.

If the incident is an event or act that appears criminal in nature, the facility will report the incident to appropriate law enforcement.

A. Immediate Reporting for Adults

- a. Minimum information per KRS 209.030(4) must be provided, if known;
- b. Contact the local DCBS office during regular working hours. Contact the DCBS Adult Abuse/Child Abuse Hot Line at (800) 752-6200 after regular work hours, on holidays, and weekends; and
- c. After reporting to DCBS, the same initial reporting is sent through electronic mail (e-mail) to DBHDID.

B. Nursing Home Additional Initial Immediate Reporting to OIG

Nursing homes will also fax an immediate initial written report to OIG.

C. Immediate Reporting for Children

- a. Minimum information per KRS 620.030(2) must be provided, if known; along with
 - i. Date and time the incident occurred; and
 - ii. Location where the child(ren) resided at the time of the incident; and
- b. Contact the local DCBS office during regular working hours. Contact the DCBS Adult Abuse/Child Abuse Hot Line at (800) 752-6200 after regular work hours, on holidays, and weekends; and
- c. After reporting to DCBS, the same initial reporting is sent through electronic mail (e-mail) to DBHDID.

D. Additional Immediate Reporting to DBHDID

The following events require additional information to be submitted through e-mail to DBHDID..

- a. Death
Include the initial cause and relevant background information.
- b. Regulatory Agency or Law Enforcement
Report all regulatory agency visits and law enforcement visits. Include the date and time of the visit, agency name, name(s) of visitor, and explanation for visit.
- c. Hospitalizations
Include the reason and relevant background information.
- d. Emergency Room Visits
Include the reason for the visit and the outcome
- e. Any media inquiries

E. Follow-Up Reporting

Using the Report of Unusual Incident form, the facility shall:

- a. Simultaneously fax the Report to DBHDID; DCBS; OIG; and, Protection and Advocacy, if the individual is a Protection and Advocacy client. All deaths of individuals with state guardians must be reported to Protection and Advocacy; and

- b. On weekends, holidays, or during non-office hours, simultaneously fax the Report to DBHDID, DCBS, OIG, and if applicable, Protection and Advocacy, within the first eight (8) hours of the next regular workday following the incident(s), except for nursing homes, which shall fax all reports immediately; and
- c. If information gathered during the Investigation or Expanded Investigation differs significantly from the initial Report, simultaneously fax an Amended Report of Unusual Incident to DBHDID, DCBS, OIG, and if applicable, Protection and Advocacy.
- d. Retain records related to Incident Reports (including Incident Investigation/Follow-up section and Peer to Peer with No or Minor Injury Investigation section as applicable), Report of Unusual Incident Reports, and Final Expanded Investigation Reports (including supportive evidence) at the facility for a minimum of three (3) years, then transfer to State Records Center for permanent retention.

10. ADDITIONAL NOTIFICATION REQUIREMENTS

Facilities shall pursue the following notifications according to the guidelines provided.

A. Parents, Guardians, Next of Kin, Emergency Contact

All facilities are required to “notify promptly” regarding any significant incidents, or changes in the individual’s condition including, but not limited to, serious illness, accident, death, abuse, or unauthorized absence:

- a. The individual’s parents, if permission is given by the individual; or
- b. The individual’s private or state guardian; or
- c. The individual’s spouse, if permission is given by the individual; or
- d. The individual’s next of kin, if permission is given by the individual; or
- e. The individual’s emergency contact, if permission is given by the individual.

B. Notify Promptly

“Notify promptly” is defined as soon as possible unless otherwise agreed to by family/guardian.

- a. In all cases, every attempt must be made to reach the family/guardian within 12 hours of incident occurrence or time of incident discovery.
- b. If a message is left on an answering machine, the only information that may be provided is the name and telephone number of the facility caller with a request for the parent/guardian/next of kin/emergency contact to return the telephone call.
- c. Written notices shall be sent if the parent/guardian/next of kin/emergency contact is unable to be reached by telephone within the 12 hours of discovery.

11. EMPLOYEE RESPONSIBILITIES RELATED TO INCIDENTS

Any person employed by the facility has responsibilities related to Risk Management and shall take actions to ensure the health, safety, and welfare of individuals, staff, and other persons, and shall abide by the following:

A. Medical Treatment

Immediately, staff discovering an incident must provide first aid within their ability related to their training, if needed, and if applicable, request additional medical assistance.

B. Reporting Requirements

Follow KRS 209, KRS 620, 42 CFR 483.13, and 42 CFR 483.420, and facility policy for **immediate reporting** to the Facility Director or designated representative and/or to other authorized officials **of harms or potential for harms to adults and children including, but not limited to, ALL:** allegations of abuse, neglect, exploitation, or mistreatment; injuries of unknown origin; serious injuries, whether known or unknown; peer to peer aggression with injury; and serious occurrences or events with potential to cause harm.

C. Incident Report

Initiate an Incident Report by the reporting staff before end of shift and complete by the reporting staff before leaving the facility. Facilities shall use their DBHDID approved Incident Report. If the facility does not have an approved Incident Report, an example is provided in Appendix C.

D. Failure to Report

Failure to immediately report an occurrence or event that causes harm or has potential to cause harm shall be considered in violation of KRS 209, KRS 620, 42 CFR 483.13, and 42 CFR 483.420 and facility policy and staff shall be subject to disciplinary action, up to and including dismissal.

E. Cooperate in Investigations / Failure to Cooperate in Investigations

Full cooperation is expected in any internal or external investigation of an incident. Provide all information pertinent to the incident and recommendations which may assist in the prevention of future incidents. Failure to cooperate with the investigation process shall be considered in violation of this protocol and facility policy and staff shall be subject to disciplinary action, up to and including dismissal.

F. Retaliatory Actions Prohibited

Any forms of retaliatory action made toward either an individual served or staff who report an incident, staff who provide information regarding such incidents in good faith, facility supervisor conducting an investigation, or investigator, either during the course of an investigation or afterwards, are strictly prohibited. Staff found involved in retaliatory actions to any degree shall be considered in violation of this protocol and facility policy and shall be subject to disciplinary action, up to and including dismissal.

12. FACILITY SUPERVISOR RESPONSIBILITIES RELATED TO INCIDENTS

The facility supervisor has responsibilities related to Risk Management and shall take the following actions where appropriate to ensure the health, safety, and welfare of individuals, staff, and other persons.

A. Immediately start an Incident Investigation/Follow-up;

B. Secure the scene in an appropriate manner:

- a. Ensure first aid and/or medical care has been provided or obtained;
- b. Immediately remove the potential target employee(s), if known, from direct care, and if more than one target employee, keep them separated to minimize the discussion of the incident among themselves, while ensuring adequate supervision of all individuals;
- c. Immediately put interventions in place to ensure the safety of all individuals, staff, and other persons;
- d. Obtain photographs of all visible injuries or photographs to document that no injury is present;
- e. Prohibit any person from removing or destroying potential or actual evidence;
- f. Ensure that an immediate report of the incident was made to the Facility Director or designated representative and/or to other authorized officials;
- g. Ensure the scene is not disturbed if facility investigators or law enforcement authorities are expected, in order to keep the scene and potential or actual evidence from being contaminated;
- h. Keep potential witnesses at the scene, and
 - i. Keep separated when possible, while ensuring adequate supervision of all individuals;
 - ii. If separation is not possible, assign or request an additional supervisor to the scene to minimize the potential witnesses from discussing the incident among themselves;
 - iii. Separate as soon as replacement staff coverage is assigned and present; and
- i. Initiate the Incident Report Form process with the reporting staff if it has not already been initiated; and

C. Ensure all areas of the Incident Report form and corresponding investigation(s) are completed before submission to the Risk Management Department.

13. INCIDENT INVESTIGATION DETERMINATION and ASSIGNMENT

Every incident will cause an Incident Report and corresponding investigation to occur. **All** incidents will be investigated using the Incident Investigation/Follow-up form. Additionally, for incidents involving peer to peer aggression with no or minor injury, an additional investigation will be completed.

Upon receiving a report of an incident, the Facility Director or designated representative is responsible to make a determination on whether an Expanded Investigation will be initiated, based on the information provided, whether harm has occurred, and whether the potential for harm is present.

Expanded Investigations are **required** for reports of **harms or potential for harms to adults and children including, but not limited to, ALL:** suspicions of or allegations of abuse, neglect, exploitation, or mistreatment; injuries of unknown origin; peer to peer aggression with serious injury; unknown serious injuries; expected or

unexpected death of an individual within the facility, during hospitalization, or within 30 days after discharge or transfer to another healthcare setting; and, serious occurrences or events with potential to cause harm. At the Facility Director's or designated representative's discretion, additional harms not delineated above may also be determined to require an Expanded Investigation.

Pending the outcome of Expanded Investigations, all incidents are considered "alleged."

A. Incident Investigation/Follow-up

Incident Investigation/Follow-up may be completed by the immediate facility supervisor of the reporting unit/home/floor, the next level supervisor, or investigator. See Appendix C for the Incident Report and associated Incident Investigation/Follow-up form.

If the incident is peer to peer aggression with no or minor injury, an additional investigation will be completed. This investigation may be completed by the immediate facility supervisor of the reporting unit/home/floor, the next level supervisor, or investigator. See Appendix D for the Peer to Peer with No or Minor Injury Investigation form.

If the immediate facility supervisor is not available or it has been alleged the immediate facility supervisor is involved in the incident, the next level supervisor, or investigator will complete the investigation. At the Commissioner's (or designee) discretion, based on the severity of an allegation or incident, an Advanced Certified Investigator from another facility may be assigned to complete an investigation.

As an investigation progresses and information becomes available that **meets the type of incident that requires an Expanded Investigation**, the supervisor shall immediately call the Facility Director or designated representative to report the additional information regarding the incident. The Facility Director or designated representative will assign an Expanded Investigation, if the additional information provided validates the incident **meets the type of incident that requires** an Expanded Investigation. If the additional information does not meet the type of incident that requires an Expanded Investigation, the Facility Director or designated representative shall require the Incident investigation to continue.

Should a determination for an Expanded Investigation be made, information obtained by the facility supervisor during the investigation will be incorporated, as applicable, into the Expanded Investigation.

B. Expanded Investigations

Expanded Investigations are completed only by an investigator.

If it has been alleged the investigator is involved in the incident, the Facility Risk Management Coordinator or designee will complete the Expanded Investigation. Alternatively, the facility may contact the DBHDID Commissioner and request that a DBHDID investigator complete the Expanded Investigation. Upon review of an investigation, the Facility Director, or designated representative, may require continuation of the investigation utilizing the Expanded Investigation format.

Facilities will use the Expanded Investigation Form in Appendix E.

The following types of allegations or incidents **require** Expanded Investigations:

1. Abuse (physical, sexual abuse, sexual assault, verbal, mental / psychological);
2. Neglect;
3. Exploitation (funds, assets, property);
4. Mistreatment (sexual, criminal);
5. Peer to peer aggression with serious injury;
6. Increased incidents of peer to peer aggression, regardless of injury, if there is suspicion of abuse, neglect, exploitation, or mistreatment.;
7. Failure to provide adequate nutrition/hydration (Appendix A);
8. Pattern of failure to practice standard safety and/or infection control precautions (see Appendix A);
9. Failure to provide safety from environmental hazards (see Appendix A);
10. Failure to provide safety from fire or smoke (see Appendix A);

11. Failure to provide initial medical screening, stabilization of emergency medical conditions and safe transfer for individuals and women in active labor seeking emergency treatment (see Appendix A); (Note: These are serious events that in the past should have been investigated)
12. Category D medication errors if a trend is present;
13. Category E-I medication errors;
14. Death of any individual on state property;
15. Expected or unexpected death of any individual served within the facility, during hospitalization, or within 30 days after discharge or transfer to another healthcare setting;
16. Missing individual/elopement from the facility;
17. Injuries of an unknown origin
18. Serious injuries of a known cause if there is suspicion of abuse, neglect, exploitation, or mistreatment;
19. Increased incidents of serious injuries of a known cause if there is suspicion of abuse, neglect, exploitation, or mistreatment.
20. Serious injuries due to staff interventions during restrictive procedures, e.g., placing an individual in behavioral restraints, etc;
21. Individual discovered to be in a lower level of supervision than required by the current treatment plan;
22. Suicidal behavior (attempt);
23. Serious occurrences or events that cause or have the potential to cause, an immediate threat to the health, safety, and welfare of individuals or other persons;
24. Through the facilities' proactive approach of identifying an occurrence, pattern, or trend, it is determined there is or may be a serious and immediate threat to an individual's or other person's health, safety, and welfare. (Note: CMS & OIG focused on proactive approach)

14. Responsibilities of the Facility Director or Designated Representative

The Facility Director or designated representative shall be responsible to:

- A. Assign an individual to supervise the facility's investigative and risk management functions, known as a Facility Risk Management Coordinator;
- B. Designate a minimum of two Certified Investigators for the facility (please see Appendix F for training requirements);
- C. Ensure facility supervisors and investigators have been trained in the appropriate investigation process;
- D. Ensure any persons involved in an incident are provided appropriate care and medical treatment and/or measures are taken to ensure their safety;
- E. Immediately review a reported incident to:
 - a. Ensure proper incident notifications are completed and transmitted to the DBHDID, DCBS, OIG, and other officials in accordance with state and federal law; and
 - b. Determine whether an Expanded Investigation is required;
- F. Ensure employee(s) are immediately removed from direct care if the incident alleges that the employee(s) participated in abuse, neglect, exploitation, mistreatment or other harm and reassign employee(s) out of direct care;
- G. Assign Expanded Investigations, as applicable; Note: Same as what was done with Class 3's
- H. Assign an investigator, if a determination is made to initiate an Expanded Investigation, to begin the collection of testimonial evidence within two hours of receiving notice of the incident. Assign:
 - a. Whenever possible, to those with no direct administrative or clinical responsibilities;
 - b. To those with no personal associations, or any other potential biases in the organizational unit where the incident occurred;
 - c. On a rotating basis whenever possible, to ensure sufficient opportunity to practice skills to maintain competence;
- I. Ensure for state-run facilities, if a determination is made the merit employee should not be on the facility grounds:
 - a. Notification is made to the DBHDID Commissioner's Office of the need for "special leave" under the authority of 101 KAR 2:102, Section 8; and
 - b. A written request for special leave is submitted to the Appointing Authority through the Commissioner's Office; and
 - c. If approved by the Appointing Authority, the Office of Human Resource Management will submit requests to the Personnel Cabinet Secretary for final approval to remove the staff from facility grounds.

- J. Ensure for contracted facilities, if a determination is made the contract employee should not be on the facility grounds, internal policies shall be followed to remove the staff from facility grounds.
- K. Determine, as applicable, at the conclusion of the facility's Expanded Investigation:
 - a. Whether the Final Expanded Investigative Report contains sufficient evidence to confirm the cause(s) of the allegation, along with the facility investigator, Facility Risk Management Coordinator and other designated staff as assigned;
 - b. If the target employee(s) may be returned immediately to their previous work status if the facility Expanded Investigation does not substantiate the allegation of abuse, neglect, exploitation, mistreatment, or other harm;
 - c. If the target employee(s) will receive disciplinary action, up to and including dismissal, if the facility Expanded Investigation substantiated the allegation of abuse, neglect, exploitation, mistreatment or other harm. The facility will make a request to the appropriate Human Resource office to initiate disciplinary action.
 - d. If the target employee(s) may or may not be returned to their previous work status if the facility Expanded Investigation determines the allegation of abuse, neglect, exploitation, mistreatment, or other harm is inconclusive. The facility should proceed with making a determination on work status, and not hinge the decision on external reports (e.g. DCBS.) If further information is needed, the facility can request a copy of the Continuous Quality Assessment (CQA) from DCBS for further review.
- L. Notify DBHDID directly, as soon as practical after discovery, of any important or unforeseen event or situation which occurs, e.g., negative media attention;
- M. Designate staff to assist with the coordination of investigations made by external agencies. Responsibilities include securing all necessary information regarding the investigation, assisting as needed in the external process, and creating an ongoing facility tracking system and log of information requested;
- N. Provide sufficient staff assigned to the risk management review process to ensure effective management, oversight, communication, and accountability for the risk management system; and
- O. Participate as a regular member of the facility Risk Management Committee.

15. Facility Supervisor Responsibilities, Authority, and Conducting the Investigation

Upon notification an incident has occurred, or a determination by the Facility Director or designated representative that an Expanded Investigation be initiated, to competently carry out assigned duties, the facility supervisor has the following responsibilities and authority, as applicable:

- A. Begin the Incident Investigation/Follow-up without delay;
 - B. Complete the Peer to Peer Aggression with No or Minor Injury Investigation without delay;
 - C. Have access to relevant documentation kept in the home/unit/floor concerning the incident and individuals, including information which is relevant to implementing individual program plans, appropriate care of, interaction with, and provision of services for the individuals;
 - D. Request assistance from the Facility Risk Management Coordinator or designee, if needed;
 - E. Complete the investigation objectively, thoroughly, and without bias;
 - F. Complete the investigation in a timely manner, prior to leaving the facility;
 - G. Submit the Incident Report and Incident Investigation/Follow-up (and Peer to Peer with No Injury Investigation, if applicable) to the Risk Management Office without delay;
- OR
- H. If the determination was made by the Facility Director or designated representative to initiate an Expanded Investigation, the facility supervisor will assist based on guidance from the investigator in securing the scene.

16. Investigator Responsibilities, Authority, and Conducting the Expanded Investigation

Upon determination by the Facility Director or designated representative that an Expanded Investigation be initiated, to competently carry out assigned duties, the investigator has the following responsibilities and authority:

- A. Coordinate without delay, an Expanded Investigation, or with the facility supervisor who has already initiated an investigation to expand the scope to an Expanded Investigation;
- B. Within two (2) hours of assignment, initiate and collect testimonial evidence;
- C. Visit the incident scene to:
 - a. Determine whether medical care has been provided;
 - b. Determine whether other appropriate measures have been taken to ensure the safety of the individuals and staff;

- c. If medical care has not been provided, or appropriate measures have not been taken to ensure the safety of the individuals, the investigator will immediately take appropriate steps to remedy the situation;
- D. Obtain from the facility supervisor all physical and documentary evidence or collect it after arriving at the scene if it has not already been collected;
- E. Collect all necessary demonstrative evidence if it has not already been collected, as appropriate, including but not limited to: photographs of the scene, individuals, staff or other persons; videographs of the scene, individuals, staff, or other persons; diagrams of the scene; or photographs of all visible injuries or photographs to document that no injury is present;
- F. Collect other types of evidence as appropriate, including but not limited to: documents concerning the incident and individuals, staff, or other persons; information which is relevant to implementing individual program plans, appropriate care of, interaction with, and provision of services for the individuals;
- G. Continue to secure the scene to ensure nothing is disturbed if law enforcement authorities are expected, in order to keep the scene and potential or actual evidence from contamination;
- H. Conduct interviews with and obtain written and signed statements from all victims identified, including those whose ability to communicate is impaired, using a client advocate, interpreter, familiar staff of the individual to assist with the individual, or familiar staff of the individual to provide information to assist with the questions and statement write-up; all relevant witnesses, including staff and those individuals whose ability to communicate is impaired, using a client advocate or interpreter to assist with the questions and statement write-up; and with the staff who provided initial first aid/medical treatment;
- I. Conduct follow-up interviews if testimony gathered during the Expanded Investigation conflicts or if further questions are generated from information obtained;
- J. Consider all other responsibilities as secondary to a timely and thorough investigation;
- K. Have direct access to all staff members and individuals served for the purpose of conducting investigations;
- L. Require employees to complete a written statement;
- M. Instruct employees to remain beyond their assigned shift or return to the facility if needed;
- N. Request assistance from the Facility Risk Management Coordinator or designee, if needed;
- O. Complete the Expanded Investigation objectively, thoroughly, and without bias;
- P. Act at the direction of the Facility Director or designated representative during the Expanded Investigation; and
- Q. Compile a Final Expanded Investigative Report through the summary and analysis of collected evidence as applicable: incident reports, testimonial evidence, documentary evidence, physical evidence, demonstrative evidence, etc., according to defined timeframes for the type of facility.

17. The Final Expanded Investigative Report

The Final Expanded Investigative Report documents all evidence collected, answers investigatory questions, and includes a determination of whether an allegation of abuse, neglect, exploitation, or mistreatment or other harm as defined for Expanded Investigations has been found to be substantiated, unsubstantiated, or inconclusive.

A. Outcome – Substantiated, Unsubstantiated, or Inconclusive

- a. After the Final Expanded Investigative Report is complete, the investigator, Facility Risk Management Coordinator, Facility Director or designated representative, and other designated staff as assigned, will evaluate the Final Expanded Investigative Report to determine whether there is sufficient evidence to confirm the cause(s) of the allegation:
 - i. The analysis of all relevant evidence must be thoroughly documented in an objective manner;
 - ii. The standard of proof to be used is “preponderance of the evidence” which is often expressed as the belief that it is more likely than not that a particular set of facts is true; and
 - iii. Based on the available evidence, the investigator and Facility Director or designated representative may reasonably choose to believe one witness over another.

B. Confidentiality

The Final Expanded Investigative Report and supporting documents contained in the investigative file are confidential and may be disclosed within the facility to those staff with responsibilities for taking disciplinary action or responding to recommendations that require knowledge of its contents.

C. Psychiatric Hospital Final Expanded Investigative Report

A final written report of the findings of an Expanded Investigation in psychiatric hospitals:

- a. Shall be submitted within 14 calendar days of the incident to:
 - i. The Facility Director;
 - ii. DBHDID;
 - iii. OIG, as requested; and
 - iv. DCBS, as requested;
- b. If requested in writing, DBHDID may approve an extension to the 14 calendar day requirement due to extenuating circumstances;
- c. A written response regarding the extension request will be forwarded to the Facility Director.

D. Nursing Facilities & Neuro-Behavioral Unit Final Expanded Investigative Report

A written report of the findings of an Expanded Investigation in nursing homes shall be submitted within five (5) working days of the incident to:

- a. The Facility Director;
- b. DBHDID;
- c. OIG; and
- d. DCBS, as requested.

E. ICF/IDD Facilities Final Expanded Investigative Report

A written report of the findings of an Expanded Investigation in ICF/IDD facilities shall be submitted within five (5) working days of the incident to:

- a. The Facility Director;
- b. DBHDID;
- c. OIG, as requested; and
- d. DCBS, as requested.

F. Personal Care Homes Final Expanded Investigative Report

A written report of the findings of an Expanded Investigation in Personal Care Homes shall be submitted within five (5) working days of the incident to:

- a. The Personal Care Home Director;
- b. DBHDID;
- c. OIG; and
- d. DCBS, as requested.

18. BACKGROUND CHECKS and PERSONS WHO MAY NOT BE EMPLOYED

Criminal background and Nurse Aide Abuse Registry checks are required before any person is employed at a facility. In addition, facilities must conduct a 100% annual background check on current state and contract employees, regardless of work area, at the time of their annual hire date.

A. Criminal Background Checks

KRS 216.533(1) requires the following background check(s) prior to employment:

- a. An in-state criminal background information check shall be obtained from the Justice Cabinet or Administrative Office of the Courts for each applicant recommended for employment; and
- b. An out-of-state criminal background information check(s) shall be obtained for any applicant recommended for employment who has resided or been employed outside of the Commonwealth.

B. Persons Who May Not Be Employed

Certain persons may not be employed by the facility:

- a. KRS 216.532 prohibits the employment of any person listed on the Nurse Aide Abuse Registry; and
- b. KRS 216.533(2) prohibits the facility from knowingly employing any person who has been convicted of a felony offense under:
 - i. KRS Chapter 209;
 - ii. KRS Chapter 218A;
 - iii. KRS 507.020, 507.030, and 507.040;

- iv. KRS Chapter 509;
 - v. KRS Chapter 510;
 - vi. KRS Chapter 511;
 - vii. KRS Chapter 513;
 - viii. KRS 514.030;
 - ix. KRS Chapter 530;
 - x. KRS Chapter 531;
 - xi. KRS 508.010, 508.020, 508.030, and 508.032;
 - xii. A criminal statute of the United States or another state similar to paragraphs (a) to (k) of this subsection; or
 - xiii. A violation of the uniform code of military justice or military regulation similar to paragraphs (a) to (k) of this subsection which has caused the person to be discharged from the Armed Forces of the United States.
- c. 42 CFR 483.420 prohibits the employment of individuals with a conviction or prior employment history of child or client abuse, neglect or mistreatment.
 - d. 42 CFR 483.13 states the facility must not employ individuals who have been found guilty of abusing, neglecting, or mistreating residents by a court of law; or have had a finding entered into the State nurse aide registry concerning abuse, neglect, mistreatment of residents or misappropriation of their property;
 - e. Anyone who has a misdemeanor offense that would indicate the employee would be at risk to abuse, neglect, exploit, or mistreat, an individual served in one of the facilities (e.g. history of assaults or thefts.)
 - f. Anyone who has a felony offense under any other Kentucky or other state, or federal statute.

EXCEPTION: KRS 216.533(3) allows the facility to employ a person who has received a pardon for an offense or has had the record of such an offense expunged as specified in subsection KRS 216.533(2), noted in 18.B.b. above.

C. Duty to Protect

The facility must take whatever action is necessary to protect individuals residing there. For example, if a facility is forced by court order or arbitration rulings to retain or reinstate an employee believed to be abusive, the facility may need to take other measures to ensure beneficiary safety such as:

- a. Assigning the employee to an area where there is no contact with individuals;
- b. Providing increased supervision and additional training for the employee;
- c. For merit employees, confer with the Kentucky Cabinet for Health and Family Services, Office of Human Resource Management and Office of Legal Services regarding appealing the arbitration or court decision, which may include pursuing formal criminal charges.

19. FACILITY RISK MANAGEMENT REVIEW PROCESS

Each facility shall have a system to review incidents and address risk management issues, no less than once a week.

A. Facility Risk Management Coordinator Responsibilities

Each facility shall assign an individual(s) the responsibility to coordinate the risk management process. If the Facility Risk Management Coordinator assigns a designee to assist with the Risk Management functions, the same responsibilities apply. These responsibilities shall include, at a minimum:

- a. Ensure full implementation of the facility's Risk Management Protocol in accord with the DBHDID Facility Risk Management Protocol;
- b. Provide technical assistance to staff in the completion of the Incident Report form;
- c. Provide technical assistance to investigators;
- d. Review all Incident Report forms, Incident Investigations/Follow-ups, Peer to Peer with No Injury Investigations, and Expanded Investigations to ensure they are logical, plausible, and complete;
- e. Provide trend reports and analysis of incident and risk management data to the Risk Management Committee;
- f. Ensure a process is in place to assign Risk Management Committee members to back check the completion and/or implementation of plans as reported to the committee to include, but not be limited to: reviewing staff training records, interviewing staff to determine effectiveness of training,

- reviewing medical record to verify adherence to a submitted plan, ensuring adaptive equipment was purchased and in the home, etc.;
- g. Coordinate a weekly assessment of all incidents to determine whether incidents have been appropriately referred for an Expanded Investigation;
- h. Maintain the incident management database;
- i. On an ongoing monthly basis, review a 5% random sample or a minimum of 5, whichever is greater, of all Final Expanded Investigative Reports using the DBHDID Incident Expanded Investigation Review Tool to identify areas of improvement and maintain all Incident Reports, Report of Unusual Incident forms, and Expanded Investigations on-site for subsequent DBHDID review. Email all Expanded Investigation Review Tool forms to DBHDID;
- j. On an ongoing monthly basis, review a 5% random sample or a minimum of 20, whichever is greater, of Investigations/Follow-up Investigations, excluding peer to peer with no or minor injury investigations, using the DBHDID Incident/Follow-up Investigation Review Tool to identify areas for improvement and maintain all 20 of the randomly chosen Incident Report forms and corresponding Tools on-site for subsequent DBHDID review;
- k. On an ongoing monthly basis, review a 5% random sample or a minimum of 20, whichever is greater, of Peer to Peer with No or Minor Injury Investigations using the DBHDID Peer to Peer with No or Minor Injury Investigation Tool to identify areas for improvement and maintain all 20 randomly chosen Incident Report forms and corresponding Tools on-site for subsequent DBHDID review;
- l. On an ongoing monthly basis, submit a summary, trending results, and analysis of all incidents to DBHDID;
- m. Identify persons to receive investigation training;
- n. Serve as the facility point of contact with DBHDID regarding the Facility Risk Management Protocol;
- o. Coordinate quarterly internal facility peer reviews on Expanded Investigations; and
- p. Develop procedures for the maintenance of Expanded Investigative files and evidence including:
 - i. A chronological log of all investigations;
 - ii. An identification number for each incident;
 - iii. Information that should be included in an investigative file;
 - iv. Person(s) responsible for maintenance of the files; and
 - v. Maintaining the files in secure facility location;
 - vi. A chronological log of all evidence;
 - vii. An identification number for each piece of evidence; and
 - viii. Preservation of evidence, including evidence that must be refrigerated; and
- q. Maintain a systematic process for filing and storing risk management documents compliant with HIPAA standards. Note: Some of this responsibility had been under Facility Director

B. Risk Management Review Committee Responsibilities

The responsibilities of the Committee shall include, at a minimum:

- a. A discussion of all incidents which have occurred within the facility since the previous meeting;
- b. A discussion of how the incidents occurred; whether or not they could have been prevented; and strategies and implementation plans for future prevention;
 - i. Communicate the strategies to DBHDID if successful for overall performance improvement; (Note: so DBHDID can pass on tips to other facilities)
- c. A review of the summaries of the:
 - i. Total number of incidents;
 - ii. Types of incidents;
 - iii. Total number of injuries;
 - iv. Type and severity of injuries;
 - v. Location, shifts, times of day where incidents and injuries occurred;
 - vi. Identify any apparent trends or patterns that could facilitate protection from harm or prevention of incidents; and
 - vii. Provide a written analysis (refer to p. 16, Section 19 A(l)) and recommendations with a copy to the BHDID Risk Management Coordinator;
- d. Identifying additional information needed to determine the cause or circumstance of the incidents, with a plan, timeframe, and assigned responsibility to collect the information. The timeframe for

- follow-up should be based on the severity of the incident. The plans should include actions to reduce the number of incidents and make improvements in the facility's procedures;
- e. Assisting supervisors/managers/treatment teams to determine possible causes of incidents, and provide advice and resources. Once the possible causes have been determined, ensure a system is in place to pass the information to direct support staff to prevent such harm in the future;
- f. Ensuring the supervisors/managers/treatment team is responsible for submitting recommendations for resolution of identified problems or trends to the Committee. Ensure a system is in place to pass the final Committee recommendations to direct support staff. Assign responsibility of implementing the plans to appropriate staff, with follow up documentation of monitoring results presented to the Committee on a defined and timely basis to evaluate progress or lack of progress with recommended changes; and
- g. Systematically monitor implementation and outcome of all plans to provide continuous quality improvement to facility practices and procedures.

20. DBHDID FACILITY RISK MANAGEMENT PROTOCOL ADMINISTRATION

The administration of the Facility Risk Management Protocol involves the DBHDID Commissioner, Risk Management Advisory Committee, Risk Management Administrator, and Risk Management Coordinator.

A. The DBHDID Commissioner or designated representative shall:

- a. Be responsible for the administration, implementation, coordination, and monitoring of the Facility Risk Management Protocol;
- b. Appoint a Risk Management Advisory Committee Chair;
- c. Appoint a Risk Management Advisory Committee to advise the Commissioner's office about risk management issues;
- d. Appoint a Department Risk Management Administrator to provide oversight and implementation of the DBHDID Facility Risk Management Protocol; and
- e. Appoint a Department Risk Management Coordinator to assist with implementation of the DBHDID Facility Risk Management Protocol.

B. The DBHDID Risk Management Advisory Committee shall provide the following:

- a. Serve as an advisory group to the Commissioner about risk management issues, and individual-related extraordinary occurrences;
- b. Conduct at least annual meetings using a prepared agenda, to review risk management issues, individual-related extraordinary occurrences, and quarterly data analysis provided by the Risk Management Administrator and Coordinator, and others;
- c. Review the Facility Risk Management Protocol on at least an annual basis and provide recommendations for improvement in writing to the Commissioner or designated representative for review and approval; and
- d. Once Protocol approval is obtained, provide a Facility Risk Management Protocol to facilities.

C. The DBHDID Risk Management Administrator and DBHDID Risk Management Coordinator shall work together to provide the following:

- a. Be the point-of-contact for the facilities, and other agencies, for consultation when questions arise about the DBHDID Facility Risk Management Protocol;
- b. Provide the Risk Management Advisory Committee with quarterly reports that examine the facility-submitted risk management data as delineated in the DBHDID Facility Risk Management Protocol for relevant trends that may be used for:
 - i. Performance improvement;
 - ii. Comparison analysis across facilities;
 - iii. Decision making;
 - iv. Planning; or
 - v. Training opportunities; and
- c. On an ongoing monthly basis, select at least one facility for review of 15 randomly chosen Incident Investigation/Follow-up Review Tools and corresponding Incident Report forms submitted to DBHDID to:
 - i. Check for adherence to the Protocol;
 - ii. Check for quality;

- iii. Determine that an Expanded Investigation was not warranted; and
 - iv. Create a formal written report of the analysis by facility and across facilities; and
- d. On an ongoing monthly basis, select at least one facility for review of 15 randomly chosen Peer-to-Peer with No or Minor Injury Investigation Review Tools and corresponding Incident Report forms submitted to DBHDID to:
 - i. Check for adherence to the Protocol;
 - ii. Check for quality;
 - iii. Determine that an Expanded Investigation was not warranted; and
 - iv. Create a formal written report of the analysis by facility and across facilities; and
- e. On an ongoing monthly basis, review a 20% randomly chosen sample of at least one facility's Final Expanded Investigations and corresponding Incident Reports and Reports of Unusual, using the DBHDID Final Expanded Investigation Review Tool to:
 - i. Check for adherence to the Protocol;
 - ii. Check for quality; and
 - iii. Create a formal written report of the analysis by facility and across facilities; and
- f. Provide peer evaluation of Expanded Investigations to provide consultation and feedback as indicated
 - i. Keep a yearly, chronological, organized file of consultation and feedback, whether by written correspondence, verbal (which must be documented), or e-mail;
- g. Notify the Risk Management Advisory Committee Chair and Facility Director of any incident that was not investigated or warrants an Expanded Investigation;
- h. Contact facilities to assist with development of appropriate staff training initiatives to meet the changing training needs based on quarterly data analysis results;
- i. Provide a report of the data analysis in 20.C.b. through 20.C.h. to the Risk Management Advisory Committee on a quarterly basis for review and approval. Once Committee approval is obtained, copies shall be sent to the DBHDID Commissioner and Facility Director, as applicable;
- j. Coordinate the Department's reporting function, which includes preparation and distribution of the following reports to Executive staff and those having a need to know:
 - i. Daily Morning Report;
 - ii. Quarterly Data Analysis Report; and
 - iii. Annual Summary, including a written analysis of any trends noted; and
- k. Attend Facility Director and Executive Committee meetings, as requested;
- l. Periodically chair meetings of all facility risk management coordinators to discuss issues with implementing the DBHDID Facility Risk Management Protocol;
- m. Maintain a systematic process for filing and storing risk management documents compliant with HIPAA standards;
- n. Conduct an annual Risk Management site visit at each facility to include, at a minimum:
 - i. A review of Risk Management policies and procedures for adherence to the Protocol (may be completed as a desk audit or on site at each facility);
 - ii. A random sample review of 1% or a minimum of 40, whichever is greater, of Incident Reports to check adherence to the Protocol and to ensure that an Expanded Investigation was not warranted (must be completed on site at each facility);
 - iii. Conducting a minimum one-hour in-service nursing and/or pharmaceutical Technical Assistance presentation highlighting risk reduction principles and best practices; and
 - iv. Submitting draft copies of the annual assessments within 20 working days after the on site visit, to the Risk Management Administrator for review and approval. Once approval is obtained, copies shall be sent to the Commissioner, Risk Management Committee, and appropriate Facility Director
- o. Notify the Commissioner, Risk Management Advisory Committee Chair, and appropriate Facility Director of the quality of Expanded Investigations of a particular investigator continues to reflect poor quality even after receiving peer feedback;
- p. Be responsible for making all necessary arrangements and assist with training for statewide risk management training events;
- q. Conduct facility focused reviews, facility Expanded Investigations, and risk management training as requested by the DBHDID Commissioner or designated representative; and
- r. Serve on the Department's Risk Management Advisory Committee.

21. DBHDID SPECIALTY INTERMEDIATE CLINIC RISK MANAGEMENT PROTOCOL

With the addition of Specialty Intermediate Clinics to our ICF-IDD facilities, it is critical that we ensure each has an approved Risk Management Protocol in place.

A. Application

This Protocol applies to all individuals served in the Specialty Intermediate Clinics, whether operated directly or under contract, and to all state employees, contract employees, consultants, agents, visitors to the facility, family/guardian, and other persons as applicable. **For incidents involving residents of a DBHDID ICF-IDD Facility, please follow the existing Facility Risk Management Protocol.**

B. Authority

Please refer to page 3 of this protocol for information on statutory and regulatory support for this Protocol.

C. Definitions, Harm Triggers, and Harm Definitions

Please refer to pages 3-7 of this Protocol for general definitions, harm triggers, and harm definitions.

D. Written Procedures

Specialty Intermediate Clinics shall have written procedures to follow KRS 209, KRS 620, 42 CFR 483.13, and 42 CFR 483.420 in the reporting of incidents to the Facility Director or designated representative and/or other authorized officials, and corresponding integrated Risk Management system.

E. Immediate Reporting

Please refer to page 7 for immediate reporting guidelines for ICF-IDD residents. For incidents involving individuals not residing at a DBHDID facility or that are not against facility staff:

- a. DCBS (immediate by phone then fax as required)
- b. Agency that provides services to the individual
- c. DBHDID (immediate by e-mail then by fax as required)

If the incident is an event or act that appears criminal in nature, the clinic will report the incident to appropriate law enforcement.

F. Additional Immediate Reporting to DBHDID

Please refer to page 8 of this protocol for a list of incidents which require **additional** email notification to DBHDID.

G. Employee Responsibilities Related to Incidents

Any person employed by the clinic has responsibilities related to Risk Management and shall take actions to ensure the health, safety, and welfare of individuals, staff, and other persons. Please refer to page 9 of this protocol for details of the requirements.

H. Questions

Should clinic employees have questions regarding this protocol, they should contact the Risk Manager at the facility whose residents they treat, or the DBHDID Risk Management Coordinator.